

Climate Policy Architecture in the EU

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Introduction

In the 30-years since 1990, the base-year for the UN's efforts to address climate change, the EU has reduced its greenhouse gas emissions by 24% while its GDP has increased by approximately 60% (EEA, 2020). This has ensured that the EU fulfilled its commitments under the Framework Convention on Climate Change, and under the Kyoto Protocol, right up to 2020, even taking account of the UK's departure from the European Union. This is unique among developed countries. Furthermore, the EU has strengthened its commitment under the Paris Agreement to an 'at least 55%' reduction of its emissions by 2030 compared to 1990, which puts it on a pathway to become a climate-neutral continent by 2050.

One of the explanations for the steadfast delivery by Europe has been the building of a robust governance framework involving Member States and other EU institutions, as well as stakeholders such as industry, environmental NGOs and the wider public. This is the 'architecture' upon which climate-related policies have been built. Success in climate terms has been founded on principles of economic realism, of acting transparently and as a reliable partner, and of perseverance even when other countries paused their efforts – welcoming

them back when they were ready.

Decision-making as foreseen by the EU Treaty

In terms of governance between EU Member States and the EU institutions, the Treaty governing the functioning of the European Union provides for 'shared competence' between EU institutions and national governments, reflecting the EU's internal market while at the same time respecting national competences, in particular with respect to the widely varying energy mix of Member States¹. EU policymaking has been built by ensuring a balance between decisions being reached on the basis of a 'qualified majority' of Member States, and others based on unanimity, such as the adoption of negotiating positions at international conferences. Mastering these two processes of decision-making has been challenging.

On top of that, when the climate agenda developed in the 1990s, two major institutional processes were taking shape in Europe. The first was the implementation of the environment chapter that was added to the Treaty of Rome in 1987 by the 'Single European Act', establishing qualified majority and co-decision with the European Parliament on matters concerning environmental regulation. The second major change was the establishment of the EU's internal market in a context of the EU expanding from 12 Member

¹ See Article 3 of the Treaty on European Union and Articles 191 and 192 of the Treaty on the Functioning of the European Union

States (in 1994) to 28 Member States (in 2007). EU enlargement created another dynamic of decision-making due to wider economic, historical, demographic and environmental differences.

At the international level Member States continued to pursue their own diplomatic efforts but increasingly understood that cooperation strengthened the influence of Europe on the international scene. This was clearly the case in the field of climate change. While minimal at the outset, the role of the European Commissioner responsible for climate has been steadily growing and is today central to the international negotiations.

Without the European Commission's role being as strong as in international trade matters, where it has 'exclusive competence', good cooperation on climate change with Member States has been key to Europe's success. Regular and intensive coordination has become a core element of the institutional set-up. This is organised by the 6-monthly rotating EU Presidency by a Member State with the continuous active support of the European Commission. In this way, the EU has become a solid negotiating group, capable of ironing out internal differences before engaging internationally.

The EU 'bubble' and effort-sharing

Confidence has also been established between EU authorities and national governments in distributing effort equitably between States, whose relative economic wealth varies widely. Still today, GDP per capita is over 12 times higher in Luxembourg than in Bulgaria², and while differences are narrowing, there is an acceptance that the same climate effort cannot be asked of all.

This solidarity between Member States was most tangibly expressed in the creation of the EU 'bubble' as provided for by Article 4 of the Kyoto Protocol³. All UN commitments since have been made collectively, reserving the right to differentiate commitments between Europe-

an countries, as reflected in the Burden Sharing Decision of 2002⁴, and subsequently reflected in the Effort Sharing exercises for covering sectors outside the EU Emissions Trading System for 2020 (EC, 2009) and 2030 (EC, 2018a).

The setting of these differentiated contributions was informed by economic and energy modelling, which for 2020 and 2030 were led by the European Commission. Clearly modelling had to be trusted as impartial also between the Member States themselves, so no single Member State or group of Member States could undertake this exercise. Differentiation within a collective commitment led, therefore, to the European Commission assuming a central role in ensuring fairness between all Member States⁵.

EU Climate Policy Decision Making

Climate legislation is not decided by the European Commission, which only makes proposals, but rather by the Council of the European Union, where the Member States are represented, and the European Parliament, whose Members are directly elected. Preparatory work for these legal decisions is undertaken in Council working groups and Ministerial meetings, and by committees and plenary sessions of the European Parliament.

On major decisions, however, such as agreeing on targets and principles of distribution of effort, the European Council has taken a close interest. The European Council, a body that was formally established in 2009 by the Lisbon Treaty and headed by a fulltime President, is made up of the Heads of State and Government of the EU Member States. The European Council does not adopt legislation but gives political orientation in a consensual manner and has played a determinant role in opening the way for agreement on the targets for 2020, 2030 and 2050.

On top of this complicated system of decision making, legislation often provides for more technical aspects to be decided by specialised

2 Real GDP per capita for 2020: source Eurostat https://ec.europa.eu/eurostat/databrowser/view/sdg_08_10/default/table?lang=en

3 Kyoto Protocol available: <https://unfccc.int/process/the-kyoto-protocol/status-of-ratification>

4 See in particular Annex II of the Council Decision of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (EC, 2002).

5 See Chapters 3 and 5 of Delbeke & Vis (2019).

committees. Since 2004, a technical committee called the ‘Climate Change Committee’ was created that comprised of experts from all Member States and is chaired by the European Commission. This committee not only collects and exchanges data on the national inventories of Member States, but also serves as the decision-making body for a wide range of technical regulations (‘Implementing Acts’). In addition, Member States’ technical experts together with other technical experts from industry and civil society participate in dedicated ad-hoc expert groups that provide technical advice to the Commission (‘Delegated Acts’). These acts cover, by way of example, the monitoring and reporting obligations or the registry’s design for the EU’s Emissions Trading System. Given the technical nature of these regulations, EU institutions have agreed to delegate decisions in terms carefully laid down in EU primary law.

In practice, the regular meetings of the Climate Change Committee and of the dedicated ad-hoc expert groups have not only built trust in the European Commission but have also created a corps of experts from across the Union that have served as an essential sounding board for climate policies and has strengthened understanding between Member States.

Evidence-based policymaking

Economic, energy and emissions modelling capabilities within the European Commission have been greatly developed over the past two decades, informing both effort-sharing exercises between Member States, as already mentioned, but also informing policy design and the setting of stringency of regulations. The models are being regularly peer-reviewed by the international modelling community, and participate in international modelling comparisons, such as in the context of the work of the Inter-governmental Panel on Climate Change (IPCC).

This modelling work is done by several departments of the Commission, most notably the climate, energy and transport departments and the Joint Research Centre. Extensive input is sought on a regular basis from Member States representatives, the European Environment

Agency, business associations, think tanks and civil society. These capabilities are fundamental to EU policymaking, not just with a view to winning buy-in, but also in designing the policies themselves so as to optimise cost-efficiency. For example, this modelling work is essential for determining the optimal quantities of emissions to be regulated by the EU Emissions Trading System as opposed to the rest of the economy.

In parallel, the European Environment Agency – based in Copenhagen – has developed a high level of expertise. It is tracking the evolution of greenhouse emissions as well as the implementation of climate-relevant policies and measures, such as renewable energy, energy efficiency, vehicle efficiency, fluorinated gases, and waste, of Member States and the EU as a whole. Figure 1 illustrates the greenhouse gas emissions of different sectors from 1990 through to 2018.

The EEA has been tasked with compiling and thoroughly checking the quality of the EU’s inventory submission that the Commission submits to the UNFCCC Secretariat annually. In addition, the Agency monitors the actual emissions and projections of Member States, informed also by the Commission’s modelling, with a view to tracking the performance of Member States in relation to their targets and for the EU as a whole. These regular reports are made available in a transparent manner by the European Environment Agency⁶.

Transparency and better regulation

Increasingly, EU climate policymaking has seen the principles of better regulation applied, in particular with the carrying out of broad stakeholder consultations and of comprehensive Impact Assessments for major policy initiatives, such as amendments to the EU Emissions Trading System (EC, 2008) or for the CO₂ performance standards for passenger cars (EC, 2012). Although this has now been generalised to all policy areas of the European Commission, it was a necessity from very early on for climate policies given the fears of adversely impacting jobs and growth, as well as EU competitiveness. Indeed, the first evaluation of the effects of the

6 See climate data available in European Environment Agency’s website here: www.eea.europa.eu/themes/climate

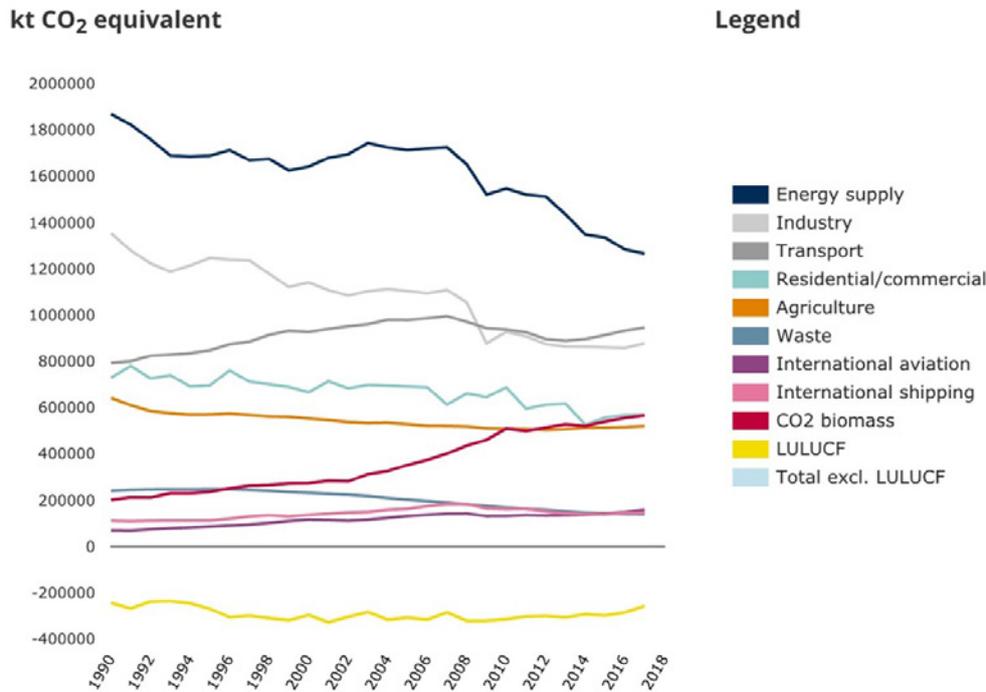


Figure 1. EU greenhouse gas emissions by aggregated sector (1990-2018). Source: European Environment Agency (EEA) 2019. For more information see European Environment Agency’s website: www.eea.europa.eu/data-and-maps/daviz/ghg-emissions-by-aggregated-sector-5#tab-dashboard-02

EU Emissions Trading System on international competitiveness dates back to 2006⁷.

Better regulation standards were also applied through the establishment of the European Climate Change Programme (ECCP), initiated in 2000 and which ran for a number of years while the first set of EU climate policies were being established. This programme was unique because it very openly brought together not only representatives from Member States but also those from industry and environmental NGOs, to sit round the table and discuss together how best to develop policies. Never was this more important than for the development of the EU Emissions Trading System, which was a new instrument in Europe and a world’s first for a ‘cap-and-trade’

system for any multi-country jurisdiction. The minutes and reports of these meetings, held 20 years ago, are still relevant and publicly available on the European Commission’s website⁸. Such public consultations are now commonplace, and provide an equal opportunity for industry, non-governmental organisations and private individuals to make their views known on forthcoming legislation.

Much attention has been paid to provide transparency to maximise buy-in and enhance public trust. For example, company-specific emissions data in the registry of the EU Emissions Trading System is made accessible after a relatively short period⁹. The new Governance Regulation relating to energy and climate policies¹⁰ requires EU

⁷ See Study commissioned by the European Commission: https://ec.europa.eu/clima/sites/default/files/ets/docs/report_int_competitiveness_20061222_en.pdf

⁸ For details of the first phase of the ECCP see: https://ec.europa.eu/clima/policies/eccp_en

⁹ Transparency underpins fairness of treatment. For emissions data per installation see: https://ec.europa.eu/clima/news/eu-ets-publication-available-emissions-data-installation_en

¹⁰ See Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action (EC, 2018b). For an in depth analysis see Kulovesi & Oberthür (2020).

Member States to submit their draft National Energy and Climate Plans every ten years (with revisions every 5 years), after “early and effective” consultation with stakeholders¹¹. The European Commission assesses these plans and may issue recommendations before their finalisation¹². Building on the Paris Agreement¹³, the Regulation also requires the Member States to prepare long-term strategies. These plans enable a coherent vision of both energy and climate policies and are made public¹⁴.

Since 2010, Member States’ progress on energy and climate policies is also assessed annually in the broader context of the ‘European Semester’ process. This process was established as part of the EU’s response to the economic and financial crisis in 2008/2009. It helps integrate and ensure policy coherence across the wide range of macro-economic, monetary, financial, sectoral and social policies. Most recently, the EU’s € 750 billion initiative to recover from the COVID-19 pandemic and to improve Europe’s resilience is being planned and rolled out as part of the ‘European Semester’ to drive investments and reforms towards a climate-neutral and digital Europe¹⁵.

Mitigation and adaptation

Europe is a heavily industrialised continent, and most of its emissions originate from power generation, transport and energy intensive industry. These sectors have been key for the economic integration of the continent. Companies in these sectors compete against each other within Europe’s internal market. Policy tools that have contributed to large companies being treated similarly, regardless of where they were based in the EU, have undoubtedly been a key driver of EU climate policy development. One has only to consider the EU’s Emissions Trading System with its common carbon price, or the CO₂ stan-

dards for new passenger cars and vans regardless of where they are sold in the EU to find examples of equating competitiveness pressures or optimising economies of scale at the European level. It is no accident, therefore, that EU’s attention been concentrated on climate policies related to these sectors.

The greater difficulties in accurately monitoring and assigning diffuse greenhouse gas emissions from the land-based sectors, such as forestry and agriculture, explains why EU climate policy has taken longer to develop in these sectors, as further detailed in the article on EU domestic policy development.

The European logic of the internal market applied less to adaptation to climate change. The EU’s approach has acknowledged the fact that measures to increase resilience are often better taken at regional and local levels, informed by the specific characteristics of an area. The European Commission has adopted successive strategies on adaptation to climate change, most recently in February 2021 (EC, 2021), with a view to highlighting again the importance of adaptation and facilitating the exchange of good practices. Furthermore, it has developed with the European Environmental Agency a platform – Climate-ADAPT – precisely to inform, share data, showcase projects and highlight possible sources of funding¹⁶.

Conclusion

Despite the EU’s complex institutional set-up and the remarkable enlargement to as many as 28 Member States¹⁷, climate change emerged as a new policy area in which tangible results have been achieved. Greenhouse gas emissions have been reduced by 24% compared to 1990 while the EU economy has continued to expand and become one of the most energy efficient in the

11 See Article 10 of Regulation (EU) 2018/1999 (EC, 2018b).

12 For details see: https://ec.europa.eu/info/energy-climate-change-environment/implementation-eu-countries/energy-and-climate-governance-and-reporting/national-energy-and-climate-plans_en

13 Article 4(19) of the Paris Agreement that “All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies...”.

14 Latest versions can be found on https://ec.europa.eu/info/energy-climate-change-environment/implementation-eu-countries/energy-and-climate-governance-and-reporting/national-long-term-strategies_en

15 https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester/european-semester-timeline/european-semester-2021-exceptional-cycle_en

16 Website of Climate-ADAPT: <https://climate-adapt.eea.europa.eu/>

17 The United Kingdom of Great Britain and Northern Ireland formally left the EU on 31 January 2020.

world. Ambitious decisions have recently been made to accelerate this downward trend of emissions while continuing the upward path of economic and social prosperity, and to reach climate-neutrality by 2050. Based on solid internal preparations, Europe has shown itself to be a trusted partner in the international climate negotiations. It developed a strong policy architecture at the European level that complements actions taken at national, regional and local levels. It prepares its policies through thorough analysis and consultation with all relevant stakeholders. As such, this architecture can also serve as a benchmark for other countries faced with the need to reduce emissions while addressing issues of fairness between regions, preserving the competitiveness of industry, and building public support through transparency and proactive engagement with stakeholders.

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